

Michael McCann
October 1, 2015

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

TRACEY WHITE, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	Cause No. 14-cv-01490-HEA
)	
THOMAS JACKSON, et al.,)	
)	
Defendants.)	

DEPOSITION OF MICHAEL McCANN

Taken on behalf of the Plaintiffs

October 1, 2015

Reported by: Christine A. LePage, CCR #1000

LePAGE REPORTING SERVICE
1465 Wilkesboro Drive
Dardenne Prairie, Missouri 63368
(314) 616-2113

LePAGE REPORTING
314-616-2113

EXHIBIT
County
Exhibit J

1 finish my question, again, you'll be able to say what you
2 want to say, just let me get the question out and then you
3 do whatever, you -- however you want to answer, you
4 answer.

5 A Okay.

6 Q And have you done a deposition before?

7 A Yes, sir.

8 Q Good, so you know how this works. How long you
9 been with the police department?

10 A I've been with St. Louis County for 23 years.

11 Q Without going into every position you've had,
12 can you give me an overview of your professional history
13 with them?

14 A I've been in North County precinct, started out
15 in North County precinct, worked in the Central County
16 precinct, Affton precinct, tactical operations unit, City
17 of Fenton, back to Affton precinct, North County precinct,
18 then to the neighborhood enforcement team, and I just
19 currently got promoted and I am working in the Central
20 County precinct.

21 Q Where is that? You say Central County?

22 A Yes, sir.

23 Q Where is that?

24 A Basically it's in the Overland, off Page and 170
25 area.

1 basically an arrest team during the whole riots.

2 Q Okay. And you heard Sergeant Ryan explain to me
3 what an arrest team was, right?

4 A Yes, sir.

5 Q Is that consistent with your understanding as
6 well?

7 A Yeah, several members that effect arrests.

8 Q All right. So Mr. Burns, I think you said, was
9 arrested at West Florissant and Highmont, right?

10 A Yes, sir.

11 Q Did you observe him prior to his arrest?

12 A Yes, I did, sir.

13 Q Tell me what you saw.

14 A I saw Mr. Burns in a crowd of people at the
15 intersection of Highmont and West Florissant, east end, I
16 saw Mr. Burns throw a rock at the -- what I'm going to
17 describe as a -- the Bear, we call it the Bear, it's an
18 armored personnel vehicle that St. Louis City was using to
19 move the crowds along.

20 Q So you saw him throw a rock?

21 A Yes, sir.

22 Q All right. And then what happens?

23 A Then when the -- besides Mr. Burns, there were
24 several rocks thrown, but I only know -- remember
25 Mr. Burns, because we ended up effecting the arrest on

1 him, was St. Louis City deployed Mace in that general
2 direction where the group was that were throwing rocks.

3 Q Okay. When you say deploy Mace, how do they do
4 that, do officers run up and spray them or is there some
5 machine that was used?

6 A It was an aerosol can, like a small, small --
7 about the size of a small fire extinguisher.

8 Q And so they sprayed people with Mace because
9 they threw rocks at an armored vehicle?

10 A At the officers that were next to the armored
11 vehicle.

12 Q At the officers that were next to the armored
13 vehicle?

14 A Yes, sir. Some officers were riding on the side
15 of the armored vehicle, there's running boards, and as the
16 vehicle approached Highmont, the people at the
17 intersection started throwing rocks at the vehicle, and
18 I'm assuming they were trying to hit the officers, but --

19 Q All right. Now, Officer McCoy testified that
20 there were piles of rocks positioned on West Florissant.
21 Is that what you observed as well?

22 MR. HUGHES: Don't be concerned, whatever you
23 observed.

24 A I wasn't in here when Officer McCoy --

25 MR. HUGHES: I know. Just what you observed,

1 disturbance, I believe, or failure to disperse. I'm
2 sorry, I have to look at it.

3 Q I think it was failure to disperse.

4 A Failure to disperse, I'm sorry. It's nature
5 code and peace disturbance, I was reading that off the top
6 of it. So that's how he found that charge out.

7 Q Now, if he was throwing rocks, why wasn't he
8 charged with assault?

9 MR. HUGHES: Objection, calls for speculation,
10 conjecture on his part.

11 A I don't know, sir.

12 Q (by Mr. Lattimer) Well, isn't throwing rocks at
13 the police an assault?

14 A Yes, sir.

15 Q And that's something you observed?

16 A Yes, sir.

17 Q So why didn't you have him charged with assault?

18 A I don't know.

19 Q I mean, you could have, right?

20 A Talking to you now, I wish --

21 Q Wish you had, right?

22 A Yeah, we wish you were there.

23 Q Yeah. Okay. And let's see. Now, did you use
24 OC spray on Mr. Burns?

25 A No, sir.

1 Q Who did?

2 A Members from the St. Louis City police
3 department.

4 Q And why did they do that?

5 A Because of the rock Mr. Burns was throwing.

6 Q He didn't throw a rock at them, did he?

7 A He did throw a rock towards the vehicle, which,
8 again, like I explained earlier, on the running boards
9 were officers holding onto the vehicle as it proceeded up
10 West Florissant.

11 Q So those are the officers who deployed the OC
12 spray?

13 A That's correct.

14 Q So Mr. Burns is in a location throwing rocks at
15 City of St. Louis police officers, correct?

16 A At police officers, I don't know if whether it
17 hit -- who he was trying to hit, but the rocks were
18 coming -- he was throwing the rock towards the vehicle,
19 which, again, officers were on the running boards of the
20 vehicle.

21 Q All right. Now, the OC spray, approximately how
22 close do you have to get to an individual to use that?

23 MR. HUGHES: With what the City police were
24 using, you mean, is that your question?

25 Q (by Mr. Lattimer) Don't you use OC spray?

1 Q The tiles. Each one of the tiles are two feet
2 wide --

3 A How long is this room?

4 Q -- four feet long, so let's count them, one,
5 two, three, four, five, six, seven. Seven tiles, four
6 feet, 28 feet, this is 28 feet.

7 A This room's 28 feet?

8 Q This way, (indicating,) long.

9 A From projection to window?

10 Q Yes.

11 A I'll agree with that.

12 Q Okay. So the OC spray, they were approximately
13 the distance from Mr. Burns at the length of this room?

14 A Yeah, that would be about correct, sir, yes,
15 sir.

16 Q Okay. And so how far away were you from the
17 person using the OC spray?

18 A I was probably two feet, three feet.

19 Q From the person using the OC spray?

20 A Yes, sir.

21 Q Behind him? To the side of him? In front of
22 him?

23 A Off to his right shoulder area.

24 Q Okay. Did you have on any -- Did you have on a
25 mask?

1 A No.

2 Q So you just had on -- You were dressed like you
3 are today?

4 A Similar, yes, sir.

5 Q And so the OC spray, once it was deployed, what
6 did you do at that point?

7 A I inadvertently got OC spray in the eyes and
8 continued walking towards where they -- I know they were
9 directing where Mr. Burns was, where they were directing
10 the OC spray, continued to walk in that manner over
11 towards the intersection, and at that time I seen Officer
12 Hill and Officer McCoy placing Mr. Burns under arrest, I
13 assisted with picking him up from the ground, and then we
14 moved him back to the Sprinter van.

15 Q And you actually put the cuffs on him, right?

16 A No, I believe Officer Hill or Officer McCoy did.
17 I assisted to flex cuff him.

18 Q I thought that you told Detective Menzenwerth
19 that you put the flex cuffs on him. "Officer McCann
20 applied the zip ties." Page 4 of 8, bottom of the page;
21 is that right?

22 A That's what it says there, yes, sir.

23 Q I'm asking you, is that correct?

24 A I assisted with the zip ties.

25 Q Well, in fact, it says you placed him under

1 arrest and that you applied the zip ties; is that correct?

2 A I did apply zip ties, yes, sir.

3 Q Okay. The other part is -- you see where it
4 says Officer McCann placed Mr. Burns under arrest, do you
5 see that?

6 A Where are we looking at, sir?

7 Q 4 of 8.

8 A Yes, sir.

9 Q Last paragraph.

10 A I do see that, Officer McCann placed Mr. Burns
11 under arrest.

12 Q You do see that?

13 A Yes, sir.

14 Q Is that accurate?

15 A That would be accurate, sir.

16 Q Okay. So you both arrested him and applied the
17 zip ties?

18 A Along with the other officers, yes, sir. It was
19 not a single officer. He threw the rocks, or he threw a
20 rock, we are an arrest team, so we go to one individual,
21 we try to remain in pairs, if not two to four people for
22 the officer's safety, so --

23 Q Now, I think you told me you don't remember his
24 physical description at all; is that right?

25 A No, I don't, sir. I mean, I remember he was a

1 black male on the side of Highmont and West Florissant,
2 but after that I couldn't --

3 Q All right. Now, you were involved in the arrest
4 of Tracey White and William Davis as well, right?

5 A I did not make the arrest, no, sir.

6 Q I said you were involved in the arrest.

7 A I was in the area when the arrest was made, yes,
8 sir.

9 Q What does that mean?

10 A That I was in the area when the arrest was --

11 Q I'm saying what does that mean you were in the
12 area?

13 A I was at Sharondale and Ferguson Avenue.

14 Q Now, you went into the McDonald's, right?

15 A I did.

16 Q And what was the reason for that?

17 A To advise the store owner that the area on West
18 Florissant was unsafe.

19 Q Why was it unsafe?

20 A Because each night right around when it was
21 getting dark there was rioting and looting of the
22 businesses along with several people shot.

23 Q Okay. But it wasn't dark, was it?

24 A It was late afternoon.

25 Q I know, but it was still -- I mean, the sun was

1 told to go to Ferguson and Sharondale, correct?

2 MR. HUGHES: Well, he can answer if he knows,
3 but --

4 Q (by Mr. Lattimer) Well, that's all you can do.

5 MR. HUGHES: I mean, I just don't want you to
6 speculate, but you can answer.

7 A No, I heard Sergeant Ryan, I was in the
8 deposition, so that's according to Sergeant Ryan, yes.

9 Q (by Mr. Lattimer) Well, wasn't the objective of
10 the skirmish line to move people to Ferguson and
11 Sharondale?

12 A There was numerous people, sir, so we were -- I
13 never dealt with Mrs. White at that point.

14 Q No, I'm not talking about her in particular, I'm
15 talking about everybody.

16 A Yeah, most people were being cooperative and
17 moving along, they were worried themselves.

18 Q All right. So but what I'm just talking about
19 is the direction of the movement, which was up Ferguson
20 towards Sharondale, correct?

21 A Towards Sharondale, yes, sir.

22 Q All right. So now we get to Sharondale, and as
23 I understand it, you say you were there but you did not
24 participate?

25 A I was dealing with the truck.

1 Q The truck. What was going on with the truck?

2 A The truck was pinned in between the street
3 sign -- well, I don't know if it's Sharondale street sign
4 or -- there's a street sign, and, well, the actual trailer
5 of the truck, somehow the guy I think made -- speculating,
6 went to go make a U-turn and got the vehicle stuck between
7 a fence, which is the apartment complex fence, and the
8 sign.

9 Q Uh-huh. And how were you going to assist him,
10 what were you trying to do?

11 A Well, first I was talking to him, I'm trying to
12 see why he was where he was at, not knowing if he was
13 there to start a group for protest reasons or what his --
14 why he was there, and it was determined that he tried to
15 make -- I don't remember if he said a U-turn, but he tried
16 to make a turn and he got his vehicle stuck.

17 Q Okay. So --

18 A He did not want to leave his vehicle in the area
19 due to the fact that other vehicles had been vandalized,
20 burned, damaged, and he had some, from what I remember,
21 like lawn equipment on the trailer, and he didn't want any
22 of that damaged, so he wanted -- he was cooperating,
23 wanted to leave the area, but he got himself in a, what do
24 you want to call it, a pickle, he got himself in a
25 situation, he kind of went off road and his vehicle was

1 stuck.

2 Q Okay. And so did you then get him out of the
3 vehicle and try to maneuver the vehicle yourself or you
4 still tried to talk him into a way to get out of his
5 predicament?

6 A I motioned him forward and motioned him back,
7 there was groups of people, we were afraid they were going
8 to get run over by this vehicle if it became unlodged
9 quickly, because it was lodged. From what I remember, the
10 trailer was kind of -- like jackknifed.

11 Q Right.

12 A And it couldn't make the turn because of the
13 fence, and he was afraid of running over the street sign.

14 Q Okay. And so then what happens?

15 A Well, maneuvered him forward, back, motioned him
16 this way, that way, and while they were dealing with
17 crowds of people, the skirmish line was dealing with
18 people. Because this was -- now became an event itself,
19 the vehicle, people wanted to see what was going on with
20 the vehicle.

21 Everything seemed to be down there, people just
22 wanted to see what was going on, if that makes sense,
23 whenever there was a commotion of police officers in an
24 area, people congregated to that area trying to be nosey,
25 to be honest.

1 Q Okay. So then what happened at that point?

2 A We eventually -- I told the driver of the
3 vehicle that he could -- he would just have to -- I don't
4 know if we got his information, we'd get his information,
5 and he could just drive, and if he knocked over the sign
6 we would deal with it later, that was under my direction
7 that would be.

8 Q All right. So did you engage Ms. White at any
9 point?

10 A I did not personally engage Miss White.

11 Q Did you engage Mr. Davis at any point?

12 A I did not personally engage him.

13 Q Did you assist in arresting Ms. White?

14 A I did not.

15 Q Did you assist in arresting Mr. Davis?

16 A No, sir.

17 Q Did you have any involvement at all with
18 preparing any reports regarding either of those two
19 individuals?

20 A I did not complete the police report, no.

21 Q Any type of report?

22 A Every day, like Sergeant Ryan stated earlier in
23 his deposition, we would debrief and give verbal -- a
24 verbal report to my immediate supervisor who was preparing
25 an after-actions report.